



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012-2713

TELEPHONE

(213) 974-1801

FACSIMILE

(213) 626-7446

TDD

(213) 633-0901

RAYMOND G. FORTNER, JR.  
County Counsel

May 31, 2007

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**ADOPTION OF ORDINANCE AMENDMENT, AMENDMENT OF LEASE NO. 59348, AND  
PAYMENT/CREDIT TOTALING \$316,900 TO RESOLVE LITIGATION REGARDING THE  
SALE OF FIREARMS AT THE WHITTIER NARROWS TRAP AND SKEET RANGE  
ALL SUPERVISORIAL DISTRICTS  
(3 VOTES)**

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Approve the attached ordinance for introduction amending Section 13.67.050 of the Los Angeles County Code to authorize the sale of shotguns, but no other firearms, at the Whittier Narrows Trap and Skeet Range ("Shooting Range") at the Whittier Narrows Dam and Recreation Area during the remaining term of the lease between the County and the Shooting Range operator;
2. Authorize the Director of Parks and Recreation to execute the attached Amendment Number Two to Lease Agreement No. 59348 pertaining to the operation of the Shooting Range to clarify that shotguns are the only firearms that may be sold at the leased premises;
3. Authorize the payment of \$241,900 to the operator of the Shooting Range, Triple B Clays, Inc. ("Triple B"), and the County's waiver of the receipt of \$75,000 from Triple B, representing attorneys' fees and costs previously awarded to the County in the litigation (for a total of \$316,900), in full settlement of the related federal and State court lawsuits entitled *Triple B Clays, Inc. v. County of Los Angeles, et al.*, USDC Case No. 03-6302 DT (JWJX) and LASC Case No. BC 336 826 (collectively, the "Triple B lawsuits"), and authorize the County

Counsel to execute all necessary documents to implement the settlement as described herein; and

4. Find that the adoption of the above-referenced amendment to Lease No. 59348 is categorically exempt under the California Environmental Quality Act ("CEQA") pursuant to Class 1(r) of the Environmental Document Reporting Procedures and Guidelines of the County of Los Angeles.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

Board approval for the recommended actions is sought to allow for the complete resolution of the Triple B lawsuits in a manner that recognizes the unique circumstances presented at the Shooting Range. The recommendations provide for an amendment to the County's ordinance prohibiting the sale of firearms and ammunition on County-owned, leased, or operated property ("Ordinance"), to slightly expand the existing exception contained in the Ordinance which already allows for the rental of firearms and the sale of ammunition for onsite recreational use at the Shooting Range. The amendment to the Ordinance would authorize the sale of shotguns, but no other firearms, at the Shooting Range for the duration of the Shooting Range lease. See Attachment 1.

The amendment to Lease Agreement No. 59348 between the County and Triple B Clays, Inc., for its operation of the Shooting Range ("Lease") will clarify the right of Triple B, or its approved successor, to sell shotguns, but no other firearms, during the remaining term of the Lease, which will expire in 2018. See Attachment 2.

The County's payment to Triple B of the sum of \$241,900, and the waiver by the County of \$75,000 in attorneys' fees and costs previously awarded to it by the federal court (for a total of \$316,900), coupled with the amendments to the Ordinance and the Lease, will completely resolve both Triple B lawsuits. The settlement sum constitutes a compromise amount intended to compensate Triple B for its past and prospective loss of income from the sale of a full range of firearms, which the Lease originally provided. Triple B has asserted damages significantly in excess of the proposed settlement amount, and would present evidence to that effect if these cases are not resolved before trial.

### Implementation of Strategic Plan Goals

The actions described in this Board letter are consistent with the County Strategic Plan Goal of Fiscal Responsibility, since they will resolve the involved litigation in a cost effective manner.

### **FISCAL IMPACT/FINANCING**

The proposed settlement sum of \$316,900 will be comprised of a cash payment to Triple B in the amount of \$241,900 and the County's agreement to waive \$75,000 in attorneys' fees and costs that were awarded to the County by the federal trial court when it dismissed the federal court action.

The \$241,900 payment will be funded by the Judgment and Damages Central Reserve.

The County will receive additional modest lease income under the Lease based upon its receipt of a percentage of the gross receipts Triple B receives from the sale of shotguns over the remaining term of the Lease.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

#### 1. The Lease for the Shooting Range and Adoption of the Ordinance

Whittier Narrows Dam and Recreation Area is owned by the Department of the Army and is leased to the County. The County originally entered into the Lease for the Shooting Range on May 31, 1988, with Triple B's predecessor, Pachmayr, Limited ("Pachmayr"). The Lease provides for the development and operation of pistol, rifle and archery ranges, a shotgun clay target range, and a trap and skeet range. The term of the Lease runs through 2018. The pistol range and rifle range have never been built. Pachmayr operated the Shooting Range until April 1999, when it sold and assigned its rights under the Lease to Triple B. The Lease has been administered by the Department of Parks and Recreation ("Parks Department").

The Lease included a provision that allows for the sale of firearms and ammunition at the Shooting Range. Both Pachmayr and Triple B sold shotguns at the Shooting Range, and had the right under the Lease to sell other firearms as well.

The Ordinance (Chapter 13.67 of the County Code) was adopted by your Board in September 1999, approximately six months after the transfer of the Lease from Pachmayr to Triple B. The Ordinance bans the sale of firearms and ammunition on County-owned, leased, or controlled property, but, in recognition of the existing Lease that the County had entered into for the Shooting Range, contains a limited exception specifically authorizing the sale of ammunition and the rental of firearms for on-site recreational uses at the Shooting Range.

The County began enforcing the Ordinance as to Triple B's operations in April 2003. This occurred shortly after the federal court injunction enjoining enforcement of the Ordinance was lifted in the Great Western gun show litigation, and the Great Western case was resolved.

Because of the restrictions in the Ordinance banning firearm and ammunition sales, Triple B asserted that the County has breached Triple B's contractual rights under the Lease and, as a result, had suffered considerable monetary damages. Triple B also claimed that the Ordinance violates its first amendment and equal protection rights under the United States Constitution.

County staff and Triple B attempted to resolve these issues, but at the time Triple B demanded \$5 million based upon the alleged harm the Ordinance had caused its operations.

## 2. The Triple B Lawsuits

The federal Triple B lawsuit was filed in September 2003, challenging the Ordinance and seeking significant damages for lost revenues from the sale of firearms at the Shooting Range. The complaint alleged, among other claims, federal first amendment and equal protection claims, and State law breach of contract claims. This lawsuit sought \$16 million in damages, and an injunction against enforcement of the Ordinance.

In June 2005, District Court Judge Dickran Tevrizian dismissed the federal court action in its entirety. The court found that all of the federal claims asserted by Triple B were untimely and barred by the statute of limitations. The federal court awarded the County \$75,000 in costs at that time.

Triple B has appealed this decision to the Ninth Circuit Court of Appeals. The matter has been briefed and the parties are waiting for an oral argument date from the Ninth Circuit Court of Appeals.

Shortly after Triple B's federal court action was dismissed, Triple B filed a State court action against the County for an unspecified amount of damages. Similar to the federal action, the State action arises out of the County's ordinance banning the sale of firearms and ammunition on County-owned or leased property.

Like the federal action, the State action seeks a determination that the Ordinance is invalid as to Triple B's operations on the basis that the Ordinance impermissibly impairs Triple B's contractual right under its Lease with the County to sell firearms and ammunition at the Facility. Unlike the federal action, however, the State action does not attempt to invalidate the entire Ordinance on first amendment or equal protection grounds.

Trial in the State action was set for May 8, 2007, but has been delayed pending the outcome of the parties' efforts to settle the matter. Triple B has dropped its claim in the State action challenging the validity of the Ordinance, and now is solely seeking damages for the County's alleged breach of the Lease.

#### **IMPACT ON CURRENT SERVICES**

Not applicable.

#### **ENVIRONMENTAL DOCUMENTATION**

Approval of Amendment No. 2 to the Lease is categorically exempt under the provisions of the California Environmental Quality Act ("CEQA") pursuant to Class 1(r) of the Environmental Document Reporting Procedures and Guidelines of the County of Los Angeles. Neither the amendment to the Ordinance nor the payment of settlement funds and the other steps to be authorized for the settlement of the Triple B lawsuits are projects under CEQA because they do not have the potential to create a direct or indirect change in the environment.

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**CONCLUSION**

The recommended actions will resolve the pending litigation in a favorable manner without the further expense and uncertainty of continued litigation.

Respectfully submitted,

  
RAYMOND G. FORTNER, JR.  
County Counsel

RGF:RDW/

Attachments (2)

c: David E. Janssen  
Chief Administrative Officer

Sachi A. Hamai, Executive Officer  
Board of Supervisors

Russ Guiney, Director  
Department of Parks and Recreation

## ANALYSIS

An ordinance amending section 13.67.050 of Title 13 – Public Peace, Morals and Welfare of the Los Angeles County Code, to allow for the sale of shotguns at the Whittier Narrows Trap and Skeet Range during the remaining term of Lease Agreement No. 59348.

RAYMOND G. FORTNER, JR.  
County Counsel

By   
RICHARD D. WEISS  
Assistant County Counsel  
Property Division

RDW:di

4/26/07 (requested)

4/26/07 (revised)

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending Title 13 – Public Peace, Morals and Welfare of the Los Angeles County Code, relating to authorizing the sale of shotguns at the Whittier Narrows Trap and Skeet Range.

The Board of Supervisors of the County of Los Angeles ordains as follows:

**SECTION 1.** Section 13.67.050 is hereby amended to read as follows:

**13.67.050 Exceptions.**

Section 13.67.030 shall not apply to the sale of any firearm by a peace officer when on duty and the sale of such firearm is within the scope of his/her duties. In addition, said section shall not apply to: (A) either the sale of ammunition, or the rental of any firearm, for on-site recreational use, at the Whittier Narrows Trap and Skeet Range within the Whittier Narrows Regional Park; ~~or~~ (B) the sale of shotguns, as defined in California Penal Code section 12020(c)(21), but no other firearms, at the aforementioned Whittier Narrows Trap and Skeet Range during the remaining term of that certain Lease Agreement No. 59348, originally entered into between the County of Los Angeles and Pachmayr, Limited; or (C) to the public administrator in the distribution of a private estate or to the sale of firearms by its auctioneer to fulfill its obligations under state law.

[1367050RWCC]



**AMENDMENT NO. 2 TO LEASE AGREEMENT NO. 59348 FOR THE  
REFURBISHMENT AND OPERATION OF A SHOOTING COMPLEX  
AT THE WHITTIER NARROWS DAM AND RECREATION AREA**

This Amendment to Lease Number 59348 made this \_\_\_\_\_ day of \_\_\_\_\_, 2007,

BY AND BETWEEN

COUNTY OF LOS ANGELES, a body  
corporate and politic, hereinafter referred to as  
"County"

AND

TRIPLE 'B' CLAYS, hereinafter referred to as  
"Lessee"

W I T N E S S E I H:

**WHEREAS**, on May 31, 1988 the Board of Supervisors of the County approved Agreement Number 59348 between the County and Pachmayr, Ltd. for the refurbishment, operation and maintenance of the Whittier Narrows Shooting Complex (hereafter referred to as the "Agreement"); and,

**WHEREAS**, on February 26, 1991, the Board of Supervisors approved Amendment No. 1 to the Agreement to provide for additional improvements and adjustment in the percentage and minimum rent; and,

**WHEREAS**, on August 16, 1999, the Director of the Department of Parks and Recreation, pursuant to Section 10 of the Agreement consented to the assignment of the Agreement to Lessee, herein; and,

**WHEREAS**, in order to resolve and compromise litigation between the County and Lessee as set forth in the related cases entitled *Triple B Clays, Inc.*

*v. County of Los Angeles, et al.* , USDC Case No 03-6302 DT (JWJX) and LASC Case No. BC 336826, the parties to the Agreement hereby desire to limit the type of firearms that can be sold at the Whittier Narrows Shooting Complex;

**NOW THEREFORE**, in consideration of the mutual promises, covenants and conditions set forth herein, the parties hereto and each of them agree as follows:

### **1. USE GRANTED**

Paragraphs 1.01 and 1.02 are amended by adding the following sentence to the end of each Paragraph, as follows:

"Notwithstanding the generality of the foregoing , the only firearms that may be sold on the demised premises are "shotguns," as defined in California Penal Code section 12020(c)(21)."

### **2. EFFECTIVE DATE**

The effective date of this Amendment shall be the date first written above.

### **3. RATIFICATION**

All other terms, conditions, covenants and promises of the Agreement not affected by the provision of this Amendment shall remain in full force and effect and are hereby reaffirmed.

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**IN WITNESS WHEREOF**, the Lessee has executed this Amendment, or caused it to be duly executed, and the County of Los Angeles, by order of its Board of Supervisors, has caused this Agreement to be executed on its behalf by the Director of the Department of Parks and Recreation, the day and year first written above.

**COUNTY OF LOS ANGELES**

By: \_\_\_\_\_

Director of Parks and Recreation

**LESSEE**

By: \_\_\_\_\_

**APPROVED AS TO FORM:**

RAYMOND G. FORTNER, JR

County Counsel

By: \_\_\_\_\_

Deputy